

From: [Halasz, Stephen \(Austin,TX-US\)](#)
To: [Gary Moore/R6/USEPA/US@EPA](#)
Cc: [Richard Bergner](#); [Alonzo Arredondo](#); [cwills@gaincoinc.com](#)
Subject: RE: and the answer is . . .Re: Fw: Falcon Refinery
Date: 08/16/2011 01:24 PM
Attachments: [Treatment standards.xlsx](#)

Gary,

Thanks for the info. Rather than treating and disposing the waste on-site we would like to put the sludge into Tank 2 and regularly agitate the waste to assist in volatilizing the waste. Then when the waste no longer exceeded the treatment standards (see the attached table) we would dispose of the waste at US Ecology as K169 waste, however as waste that meets the treatment standards. The result would be a ten-fold saving to NORCO.

While the sludge was being agitated we could clean out all the remaining tanks at the site.

-----Original Message-----

From: Moore.Gary@epamail.epa.gov [mailto:Moore.Gary@epamail.epa.gov]
Sent: Tuesday, August 16, 2011 12:19 PM
To: Halasz, Stephen (Austin,TX-US)
Subject: Fw: and the answer is . . .Re: Fw: Falcon Refinery

Gary Moore
Federal On-Scene Coordinator
EPA Region 6
Cell: 214-789-1627
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email: moore.gary@epa.gov

----- Original Message -----

From: Joel Dougherty
Sent: 08/15/2011 04:13 PM CDT
To: Gary Moore
Cc: Melissa Smith
Subject: and the answer is . . .

Re: Fw: Falcon Refinery
Hi Gary,

Here is my opinion.

1. You are correct, K169 is listed because of Benzene (only). However, there are other constituents for which the waste must be treated (see table 268.40).
2. You cannot treat the listing away, but the waste does have to be treated to meet treatment standards before you can land dispose it. However, even after treatment, the treatment residue still remains a listed waste.
3. It does not matter when the waste was deposited. The listings apply retroactively. Therefore, if waste was stored/disposed in a tank (or on the ground) prior to the listing of K169, but it currently meets the definition of K169 and is actively managed today, it must be managed as K169. (Just FYI. 40 CFR 268.35 states that waste meeting the K169 definition was prohibited from land disposal starting February 8, 1999.)
4. If you know that the waste meets the definition of K169, it will have to be managed as such. If however, you do not know the origin of the material or whether it meets the listing definition, you are allowed to make a hazardous waste determination based on characteristic. And yes, characteristic wastes can be "decharacterized" but they still will have to meet the land disposal requirements prior to interment.

Please call me at x2281 if you have any questions.

Thanks.

Joel

Joel M. Dougherty, PhD
Environmental Scientist
Hazardous Waste Enforcement Branch
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Any opinions that I have expressed are my own, and should not be construed as official Agency position, especially since the Agency may not be aware of all of the information relative to your unique situation. My responses are provided as an honest attempt to be responsive to your request and answer your questions using my best professional judgement and knowledge. If you require more detailed



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information or official Agency interpretation, you must obtain it in writing.

From: Melissa Smith/R6/USEPA/US
To: Joel Dougherty/R6/USEPA/US@EPA
Cc: Gary Moore/R6/USEPA/US@EPA
Date: 08/15/2011 01:16 PM
Subject: Fw: Falcon Refinery

Hey Joel, I need your help with some questions below from Gary (Superfund OSC). I told him I don't know the answers off the top of my head but can research them except that I have a facility coming in on Wed that I'm trying to get ready for first. I was hoping to get to it today but haven't been able to yet. He asked if you might be able to help? Maybe you already know the answers to these? If not, I hope to be able to work on it tomorrow.

Thanks,
Melissa

Melissa Smith
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----- Forwarded by Melissa Smith/R6/USEPA/US on 08/15/2011 01:10 PM

From: Gary Moore/R6/USEPA/US
To: Melissa Smith/R6/USEPA/US@EPA
Date: 08/15/2011 08:05 AM
Subject: Falcon Refinery

Melissa:

I need to see if you can answer the following questions:

1. K169 is listed for what contaminants? I think benzene only but not sure.
2. Can you treat away the K169 listing? I don't think you can but can you. Its my understanding that you can only treat away a characteristic listing.
3. When would the waste have to have been deposited to carry the K169 code? I assume, its the date of the listing, which I don't know,
4. If it was prior to the date to the development date of the K169 codes, do we revert to characteristic listings? I think you can treat a characteristic waste and it not be hazardous.

Thanks

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